

**CHAPTER NO. 355**

**SENATE BILL NO. 2258**

**By Kyle, Jackson**

**Substituted for: House Bill No. 2273**

**By McMillan, Odom, Hackworth**

AN ACT to amend Title 69, Chapter 3, Part 1 of Tennessee Code Annotated, relative to appeals of permits.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 69-3-105, is amended by deleting the current subsection (i) and substituting in its place the following new subsection (i):

(i) Upon receiving a petition for permit appeal, the board has the power, duty, and responsibility to hold a contested case hearing concerning the commissioner's issuance or denial of a permit. During this hearing the board shall review the commissioner's permit decision and may reverse or modify the decision upon finding that it does not comply with any provisions of this part. A petition for permit appeal may be filed pursuant to this subsection by the permit applicant or by any aggrieved person who participated in the public comment period or gave testimony at a formal public hearing whose appeal is based upon any of the issues that were provided to the commissioner in writing during the public comment period or in testimony at a formal public hearing on the permit application. Additionally for those permits for which the department gives public notice of a draft permit, any permit applicant or aggrieved person may base a permit appeal on any material change to conditions in the final permit from those in the draft unless the material change has been subject to additional opportunity for public comment. Any petition for permit appeal under this subsection shall be filed with the board within thirty (30) days after public notice of the commissioner's decision to issue or deny the permit. Notwithstanding the provisions of § 69-3-118(a) or § 4-5-223 or any other provision of law to the contrary, this subsection and the established procedures of Tennessee's Antidegradation Statement found in the rules promulgated by the department shall be the exclusive means for obtaining administrative review of the commissioner's issuance or denial of a permit.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it; provided, that it shall only apply to permit applications filed after its effective date.

PASSED: May 19, 2005

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 7<sup>th</sup> day of June 2005

  
PHIL BREDESEN, GOVERNOR